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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,783	09/05/2003	John C. Goodwin III	11328.00	8959
26884	7590	04/06/2005	EXAMINER	
PAUL W. MARTIN LAW DEPARTMENT, WHQ-4 1700 S. PATTERSON BLVD. DAYTON, OH 45479-0001			LEE, DIANE I	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/656,783	<b>Applicant(s)</b> GOODWIN, JOHN C.	
	<b>Examiner</b> D. I. Lee	<b>Art Unit</b> 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/2/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

1. Claims 1-8 are presented for examination.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01.

The omitted elements are:

*a reading mean for reading a number of product labels including at least one of a bar code label and*

*a radio frequency identification label on the item.*

A reading mean for reading the number of product labels is first required in the system in order for the control circuitry to provide a result of attempting to read the number of product labels.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds et al. [US 6,286,762-referred as Reynolds].

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**Re claims 1-2, 4, 7-8:** Reynolds discloses a system and a method for notifying an operator of a result of attempting to read a number of product labels on an item 14 by a checkout device (a reader 10), the checkout device 10 comprising;

- a bar code reader 32;

- a radio frequency identification label reader 30;

- a good read indicator (green LED 76 for RFID tag and green LED 78 for machine read code, see col. 6, lines 65+; col. 7, lines 41+; and figure 3);

- a bad read indicator (red LED 84, 86 for unsuccessful or incomplete reading operation, such as red LED 84 for RFID tag and red LED 86 for machine readable code, such as bar codes, stacked codes, etc., see col. 6, lines 65+; col. 7, lines 41+; and figure 3);

- control circuitry 46

- for causing the bar code reader to generate a scan pattern for reading a bar code label 24a, 24b;

- for causing the radio frequency identification label reader 30 to generate a sensing field for interrogating a radio frequency identification label 12a, 12b;

- for notifying an operator of a result of attempting to read a number of product labels, including at least one of a bar code label and a radio frequency identification label on an item (i.e., flashing yellow LEDs, such as LED 80 for RFID tag and flashing yellow LED 82 for bar code, see col. 7, lines 41+ and figure 2);

- wherein the control circuitry

- activates a bad read indicator (i.e., illuminating red LED 84, 86 in response to a unsuccessful or incomplete read operation of the RFID tag 12a, 12b or bar code 24a, 24b) to indicate a single bad read indication if the control circuitry fails to completely receive item identification

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information from at least one of the bar code label and the radio frequency identification label (see col. 6, lines 65+; col. 7, lines 58+; and figures 2-3); and

activates a good read indicator (i.e., illuminating green LED 76, 78 in response to a successful read of the RFID tag 12a, 12b or bar code 24a, 24b) to indicate a single good read indication if the control circuitry receives item identification information from at least one of the bar code label and the radio frequency identification label (see col. 6, lines 65+; col. 7, lines 55+; and figures 2-3).

**Re claims 3 and 5:** wherein the checkout device 10 further includes an audio indicator 64 for audibly indicating bad read operation (see col. 13, lines 43+; and figure 2).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds in view of Minasy [US 5,121,103-referred as Minasy].** The teachings of Reynolds have been discussed above.

In Reynold's teachings, the activation of the user input by the operator of the checkout device (i.e., the user activating the trigger 20) obviously teaches that the operator is visually recognizing that the item is within the reading range of the checkout or has passed over by the checkout device. The signal received in the reader upon the triggering act of the user prompts the reader to operate in reading mode, which serves the function of (i.e., the reader) receiving an indication that the item is within the reading range of the checkout device (i.e., provided by the operator's visual inspection and activating the trigger).

Reynolds fails to explicitly teach the step of receiving an indication that the item has passed over by a checkout device.

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Minasy teaches a checkout device 14, 16 having an antenna 34 mounted in or adjacent to the counter 20 of the cash register 24 to alert the clerk when the system has detected the passage of checkout item (see col. 5, lines 60+ and figure 1).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the checkout device having an antenna that detects the passage of checkout item in the checkout device of Reynolds in order to ensure the reading operation of all product items that passed over the checkout device.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Yasushi [JP 2001052105], Johnsen [US 5,151,684], Bidgelall et al. [US 2001/0038037], Kawai et al. [US 6,719,202], and Ruppert et al. [US 5,640,002] discloses a system having a reader that reads plural kinds of codes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is (571) 272-2399. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D. I. Lee  
Primary Examiner  
Art Unit 2876

D. L.